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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

AKEIDO WINGO,

Defendant and Appellant.

B219144

(Los Angeles County
Super. Ct. No. KA087236)

APPEAL from a judgment the Superior Court of Los Angeles County,
Bruce F. Marrs, Judge. Affirmed.

Nancy L. Tetreault, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Akeido Wingo appeals from judgment following his no contest plea to residential burglary. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The report of the probation officer indicates that through his home surveillance system, the victim, Ryan Tsan, saw defendant in the front and backyards of his residence. Police found pry marks on the back door, and the victim discovered his watch and \$200 in cash had been taken from his residence. Defendant was a known member of the Rollin 30's Crips Gang.

On July 17, 2009, defendant was charged by felony complaint with one charge of residential burglary (Pen. Code, § 459).¹ It was specially alleged defendant was subject to sentencing under the “Three Strikes” law (§§ 667, subds. (b)-(i); 1170.12, subds. (a)-(d)) for one prior serious or violent felony conviction² and under section 667, subdivision (a)(1), and had served three separate prison terms for felonies within the meaning section 667.5, subdivision (b).

Appearing with the alternate public defender on August 27, 2009, defendant waived his right to a preliminary hearing and was held to answer on all the charges. Pursuant to a negotiated plea, defendant agreed orally and in writing to plead no contest, to admit the amended allegation the offense was committed for the benefit of a criminal street gang (§ 186.22, subd. (b)(1)(B)), and to admit a 1997 conviction for robbery as a prior strike conviction in return for an aggregate state prison sentence of four years. The remaining special allegations, including the gang enhancement, were to be dismissed.

¹ Statutory references are to the Penal Code.

² On the People's motion, the trial court struck an improperly alleged second prior strike conviction.

At the time defendant entered his plea, he was advised of his constitutional rights and the nature and consequences of his plea orally and in writing.³ The prosecutor reiterated that defendant would be admitting the gang enhancement allegation and conviction for robbery in 1997 as a prior strike conviction. Defendant stated he understood and waived his constitutional rights, acknowledged he understood the consequences of his plea and admissions, and accepted the terms of the negotiated agreement.

Defense counsel joined in the waivers of defendant's constitutional rights and concurred in the plea admissions. Defense counsel stipulated to, and the court found, a factual basis for the plea based on the police report.

Prior to sentencing on September 21, 2009, defendant made a motion to withdraw his plea, on grounds that: (1) contrary to defense counsel's advice, defendant did not commit burglary within the meaning of section 459; and (2) defendant was unaware of the enhancement allegations, when he entered his plea. The trial court denied the motion, finding defendant's plea was knowing and voluntary.

Pursuant to the agreement, defendant was sentenced to four years in state prison, or the two-year lower term for residential burglary, doubled under the Three Strikes law, and the gang enhancement allegation was stricken. The court ordered defendant to pay a \$30 court security fee, a \$30 criminal conviction fee, a \$10 crime prevention fee, and a \$200 restitution fine. The court imposed and suspended a parole revocation pursuant to section 1202.45. The court dismissed the remaining special allegations on the People's motion. Davis was awarded a total of 110 days presentence credit for both cases (76 actual days and 36 days of conduct credit).

³ At the plea hearing, the court referred to a "felony advisement of rights, waiver and plea form," and asked defendant if he had initialed the boxes and signed the form. Defendant said he had. The court then inquired whether defendant initialed and signed the form to indicate he had read and understood the form, and had agreed to each of its written terms and conditions. Defendant answered, "Yes." The written form is part of the record on appeal.

Defendant filed a timely notice of appeal.⁴ We appointed counsel to represent defendant on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On March 30, 2010, we advised defendant he had 30 days in which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied defendant's attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.

⁴ Defendant's notice of appeal was "from the judgment of conviction and sentence entered against him," but he failed to obtain a certificate of probable cause. Thereafter he filed an amended notice of appeal "based on the sentence or other matters occurring after the plea."